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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,690	06/07/2001	Brian Collamore	US010390	8205

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
TOMASZEWSKI, MICHAEL	
ART UNIT	**PAPER NUMBER**
3626	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/876,690	COLLAMORE ET AL.	
	Examiner	Art Unit	
	Mike Tomaszewski	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 January 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10,12-16 and 18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10,12-16 and 18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 January 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the application filed on 6/7/2001. Claims 1-10, 12-16, 18, and 19-21 are pending. Claims 1, 3-7, 9-10, 12-13, 15-16, and 18 have been amended. Claims 19-21 are newly added. Claims 11 and 17 have been cancelled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-10, 12-16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Judd et al. (US 2002/0087503; hereinafter Judd), in view of Rapaport et al. (6,192,112; hereinafter Rapaport).

(A) Claims 1, 7, and 13 have been amended to include the following limitations:

(1) informing a user of arrival of new information while the user is reviewing a study to which the new information corresponds.

Judd, however, fails to expressly disclose these limitations. Nevertheless, these limitations are well known and obvious, as evidenced by Rapaport. In particular, Rapaport discloses:

(1) informing a user of arrival of new information while the user is reviewing a study to which the new information corresponds (Rapaport: abstract; col. 37, lines 55-62).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Rapaport with the teachings of Judd with the motivation of providing effective and timely communication of medical information to pertinent parties; and to provide efficient medical information management (Rapaport: col. 1, lines 52-67 and col. 2, lines 1-5).

(B) Claims 2-6, 8-10, 12, 14-16, and 18 are rejected for substantially the same reasons given in the previous Office Action and incorporated herein.

4. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Judd in view of Rapaport as applied to claims 1, 7 and 13 above, and further in view of Myers et al. (5,832,450; hereinafter Myers)

(A) As per newly added claim 19, Judd fails to expressly disclose the medical information management system of claim 1, wherein the computer is configured to inform the user of the arrival of the new information in response to addition of the new information to the study.

Nevertheless, these features are old and well known in the art, as evidenced by Myers. In particular, Myers discloses the medical information management system of claim 1, wherein the computer is configured to inform the user of the arrival of the new information in response to addition of the new information to the study.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Myers with the combined teachings of Judd and Rapaport with the motivation of providing an efficient medical record system (Myers: col. 2, lines 35-39).

(B) Claims 20 and 21 substantially repeat the same limitations of claim 19 and therefore, are rejected for the same reasons given for claim 19 and incorporated herein.

Response to Arguments

5. Applicant's arguments with respect to claims 19-21 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's arguments filed 1/17/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in Applicant's response.

(A) On page 15 of the 1/17/06 response Applicant argues Judd teaches, "the physician does not have to wait by the imaging equipment for the image completion." On page 16 of the 1/17/06 response Applicant argues further that "**viewing** the images at the same time as reading the written report is not the same, and different from, **informing** the user of arrival of the new information when the user is reviewing the study."

In response, Examiner respectfully submits that a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987) (The preamble of claim 1 recited that the apparatus was "for mixing flowing developer material" and the body of the claim recited

"means for mixing ..., said mixing means being stationary and completely submerged in the developer material". The claim was rejected over a reference which taught all the structural limitations of the claim for the intended use of mixing flowing developer. However, the mixer was only partially submerged in the developer material. The Board held that the amount of submersion is immaterial to the structure of the mixer and thus the claim was properly rejected.). See MPEP § 2114.

Furthermore, Examiner notes that Applicant's invention includes no structure that prevents the user, upon returning to the computer workstation after momentarily walking away, from being informed of the arrival of new information. Put another way, whether a user remains seated at the computer workstation to view the study or whether the user walks away is a function of the user and not a function of the system.

Lastly, although Judd does not require a user to wait by the computer workstation in order to be informed of the arrival of new information, a user may remain at the computer workstation, if so desired, and be informed of the arrival of new information.

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied art teaches a modular microprocessor-based diagnostic measurement apparatus and method for psychological conditions (5,940,801).

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MT

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER